

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

OCT 20 2005

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte VICTOR P. LASKORSKI

Appeal No. 2006-0047
Application No. 10/039,511

NOTIFICATION OF NON-COMPLIANCE REGARDING ORAL HEARING

On November 11, 2004, appellants filed an Appeal Brief, accompanied by an extension of time fee. On page 2 of the Appeal Brief, appellants included a section requesting an oral hearing in connection with the appeal.

According to 37 CFR § 41.47(b) and (c):

If appellant desires an oral hearing, appellant must file, as a separate paper captioned "REQUEST FOR ORAL HEARING," a written request for such hearing accompanied by the fee set forth in § 41.20(b) (3) within two months from the date of the examiner's answer or supplemental examiner's answer.

If no request and fee for oral hearing have been timely filed by appellant as required by paragraph (b) of this section, the appeal will be assigned for consideration and decision on the briefs without an oral hearing.

Moreover, appellant filed a Reply Brief on February 7, 2005. On page 2 of the Reply Brief, appellant states that "[f]iled currently herewith is a Request for Oral Hearing, also in

triplicate." A review of the electronic file reveals that no such Request for Oral Hearing has been filed.

Since appellants' request for oral hearing was not filed in a separate paper as required by 37 CFR § 41.47(b), and the fee not submitted, appellants' request for an oral hearing cannot be granted.

If appellant still desires an oral hearing, a petition under 37 CFR § 1.183 must be filed within two weeks of the mail date of this notice, and be accompanied by the petition fee set forth in 37 CFR § 1.17(f). This two-week time period for filing a petition under 37 CFR § 1.183 is not extendable under 37 CFR § 1.136(a). The failure to timely file a petition under 37 CFR § 1.183 will result in the appeal being decided without an oral hearing (i.e., on brief).¹

By order of the

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:


DALE M. SHAW
Chief Board Administrator
(703) 308-9797

DMS:clm

¹ If appellant decides not to file a petition under 37 CFR § 1.183, the Board of Patent Appeals and Interferences would appreciate written notice thereof so that a decision on the appeal can be expedited.

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